

Supreme Court of Florida

JEREMIAH JOHNSON,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. 91,328

[September 4, 1998]

PER CURIAM.

We have for review State v. Johnson, 696 So. 2d 880 (Fla. 5th DCA 1997), based upon express and direct conflict with Evans v. State, 546 So. 2d 1125 (Fla. 3d DCA 1989). See Art. V, § 3(b)(3), Fla. Const. However, after hearing oral argument, we have determined that jurisdiction was improvidently granted. Accordingly, the petition for review is hereby dismissed.

It is so ordered.

HARDING, C.J., and OVERTON, SHAW, KOGAN, WELLS and PARIENTE, JJ., concur.

ANSTEAD, J., dissents.

NO MOTION FOR REHEARING WILL BE ALLOWED.

Application for Review of the Decision of the

District Court of Appeal - Direct Conflict of Decisions

Fifth District - Case No. 95-1943

(Orange County)

James B. Gibson, Public Defender, and James R. Wulchak, Chief, Appellate Division, Assistant Public Defender, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and David H. Foxman, Assistant Attorney General, Daytona Beach, Florida,

for Respondent